

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

916L0093

SENATE BILL NO. _____

Introduced by: _____

1 FOR AN ACT ENTITLED, An Act to HUTCHINSON—CRIMINAL TRESPASS.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 22-35-5 be amended to read as follows:

4 22-35-5. Any person who, knowing that he or she is not privileged to do so, enters or
5 ~~surreptitiously~~ remains in any building or structure surreptitiously, is guilty of criminal trespass.

6 Criminal trespass is a Class 1 misdemeanor.

7 Section 2. That § 22-35-6 be amended to read as follows:

8 22-35-6. Any person who, knowing that he or she is not privileged to do so, enters or
9 remains in any place where notice against trespass is given by:

10 (1) Actual communication to the ~~actor~~ person who subsequently commits the trespass;

11 (2) Posting in a manner reasonably likely to come to the attention of ~~intruders~~
12 trespassers; or

13 (3) Fencing or other enclosure which a reasonable person would recognize as being
14 designed to exclude ~~intruders~~ trespassers;

15 is guilty of a Class 2 misdemeanor, ~~but if he~~. However, if such trespasser defies an order to
16 leave, personally communicated to him or her by the owner of the premises or by any other



1 authorized person, ~~he~~ the trespasser is guilty of criminal trespass, which is a Class 1
2 misdemeanor.

3 Section 3. That § 22-35-7 be amended to read as follows:

4 22-35-7. It ~~shall be~~ is an affirmative defense to prosecution under §§ 22-35-5 ~~and or~~ 22-35-6
5 that:

6 (1) The premises were at the time open to members of the public and the ~~actor~~ person
7 complied with all lawful conditions imposed ~~on~~ concerning access to or the privilege
8 of remaining on the premises; or

9 (2) The ~~actor~~ person reasonably believed that the owner of the premises, or other person
10 permitted to license access ~~thereto~~ to the premises, would have permitted him or her
11 to enter or remain.

12 Section 4. The code counsel shall rename chapter 22-35 as Criminal Trespass.